

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **20<sup>TH</sup> JULY 2016**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **APPEAL BY DIOCESE OF WREXHAM AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE REDEVELOPMENT OF THE SITE FOR THE ERECTION OF A RESIDENTIAL APARTMENT BLOCK WITH MEANS OF ACCESS AND OFF-STREET PARKING AT 1 QUEEN STREET, QUEENSFERRY - DISMISSED**

**1.00 APPLICATION NUMBER**

1.01 053080

**2.00 APPLICANT**

2.01 DIOCESE OF WREXHAM

**3.00 SITE**

3.01 1 QUEEN STREET,  
QUEENSFERRY,  
FLINTSHIRE. CH5 1TB

**4.00 APPLICATION VALID DATE**

4.01 22<sup>ND</sup> DECEMBER 2014

**5.00 PURPOSE OF REPORT**

5.01 To inform members of the Inspector's decision in relation to an appeal into the refusal to grant planning permission for the redevelopment of the site for the erection of a residential apartment block with means of access and off-street parking at 1 Queen Street, Queensferry, Flintshire. CH5 1TB. The application was refused by Members of the Planning & Development Committee with the appeal dealt with by way of an informal hearing and was **DISMISSED**.

## **6.00 REPORT**

### **6.01 Background**

Members may recall that his application was refused by the Planning & Development Control Committee on 20<sup>th</sup> May 2015 contrary to officer recommendation. It was refused on the grounds that as the site lies within a C1 Flood Risk Zone, the Local Planning Authority were not satisfied that the development would not result in an increase in flood risk, to the detriment of the safety of the occupants of the proposed apartments.

### **6.02 Issues**

The Inspector considered that the main issue was whether the proposed development is justified, in respect of whether the consequences of flooding would be acceptable.

### **6.03 Justification**

The site is a vacant corner plot which is currently being used as a compound for construction equipment. The proposal is to construct a block of six flats. Despite the living accommodation being raised to the first and second floors, the Inspector considered the proposed development would be residential and thus classified as highly vulnerable.

6.04 TAN15 takes a precautionary approach directing new development away from those areas which are at high risk of flooding, away from zone C and towards suitable land in zone A, otherwise to zone B2. It should only be permitted within zone C1 if determined to be justified in that location according to a series of tests.

6.05 The first test is that the proposal would be necessary to assist, or be part of, a local authority strategy required to sustain an existing settlement; such a strategy is defined as the development plan for the area<sup>4</sup>. The proposed development would be in Queensferry which is identified in the Flintshire Unitary Development Plan (UDP) as a Category A settlement where the largest amount of growth, 10-20%, is proposed. Additionally, there is a shortfall in the County's housing provision and a lack of a five year supply of housing land. The six flats proposed would contribute to the UDP's total housing requirement and the growth anticipated for Queensferry. This contribution would be minimal, however, and in that light the Inspector considered that the proposed development would do little to assist a local authority strategy, namely the UDP.

6.06 A second test for justification is that the proposed development would concur with the aims of PPW and meet the definition of previously developed land. It was in the planning committee report that the land had previously been a garden associated with a residential property. The definition set out in Figure 4.4 of PPW records that the curtilage

of the relevant development is included and thus the appeal site can be defined as previously developed land. PPW also notes, however, that that does not mean that the whole area should be redeveloped.

- 6.07 The main thrust of PPW is achieving the sustainable development of Wales which is defined as the process of improving the country's economic, social, environmental and cultural well-being. Whilst not being classified as affordable units, the small flats proposed would no-doubt be within the budget of many residents in the area. They would be within easy walking distance of the shops and services provided in Queensferry, would make use of land within the previously developed definition and, during the construction period, provide employment. In general terms therefore, the proposed development would concur with the sustainability aims of PPW.
- 6.08 Consequences of Flooding  
The final justification test is that the potential consequences of a flooding event for the proposed development have been considered and, in terms of criteria set out in TAN15, found to be acceptable.
- 6.09 The appellant's Flood Consequences Assessment (FCA), which is based on data from NRW, records the potential and probability of flooding. The main source of risk to the site is tidal flooding from the River Dee. Although the flood defences are earth banks dating from canalisation of the river in the 1700s there is no evidence that they are not in a serviceable condition. There are no records of fluvial or tidal flooding at or near the site which falls outside the extent of past flooding. No overtopping of the defences, including with a climate change allowance (CCA), is estimated up to 2061 and minimal overtopping up to 2086. Such an occurrence would be unlikely to cause significant flooding at the site.
- 6.10 The most severe flood event would be most likely as a result of a breach of the defences. This could result in depths of 1.17m on site during the 1 in 200 event and, taking account of climate change, 2.1m on site up to 2111. There is a risk therefore, albeit very low, that the development proposed would be subject to such flooding, particularly since the agreed lifetime of residential development is 100 years.
- 6.11 The appellant's FCA concluded that the site is at high risk of tidal flooding during the 0.5% Annual Exceedance Probability event when including 100 years CCA. Although the depth of water on the site would be likely to be minimal it results in conflict with TAN15's acceptability criteria for flooding consequences. These state that, in view of the traumatic impact of flooding on people's personal lives, it is not sensible to allow residential development in areas which flood frequently. The advice, therefore, is that development should be designed to be flood free during the 0.5% tidal flood.

- 6.12 If such an event took place, due to the ground floor parking area flood water would not enter future occupiers' living accommodation. Nonetheless, those occupiers would suffer from disruption, worry, and possible damage to vehicles and any other possessions stored at ground floor level. There would also be the inconvenience, and possibly expense, of clearing up debris and deposits. TAN15 makes clear that the frequency thresholds are indicative rather than prescriptive. When dealing with a circumstance as potentially distressing as flood, however, it is necessary to be cautious in line with the general approach of TAN15.
- 6.13 The chances of flooding arising from a breach are very low but must be taken into account. Were one to occur the depth and flow of water in the parking area would be likely to cause considerable damage to vehicles and cycles stored there. It would also impede escape from the living floors, potentially marooning occupiers. As it would be tidal the flood would subside to allow escape, for example via the nearby area of higher ground. Nonetheless, confinement in the proposed flats would be uncomfortable at the least, and particularly so if utilities were affected.
- 6.14 The potential consequences of a flooding event would not, therefore, be acceptable in the terms of the criteria set out in TAN15. In particular there would not be minimal disruption to people living and working in the area or minimal potential damage to property. At the hearing the possibility of a condition to de-risk the building and make it flood resilient was discussed; the potential to incorporate solar panels was also mentioned. In the absence of detail as to such measures the Inspector could not be confident, however, that they would be practicable and would enable the proposed block to be flood free in accordance with TAN15.
- 6.15 The proposed development would provide new housing in a sustainable location and in a County which is in great need of such. Technical Advice Note 1 states that where there is not a five year supply of land, as is the case now in Flintshire, the need to increase supply should be given considerable weight. This is subject to the proviso, however, that the development would otherwise comply with development plan and national planning policies.
- 6.16 By reason of the small number of units which would be provided it was the view of the Inspector that the proposed development would not assist a local authority strategy to any significant degree. In addition the potential consequences of flood would not be acceptable. In failing these tests the proposed development would not be justified and thus would be contrary to national policy set out in TAN15.
- 6.17 The proposed development would be within an area at risk of flooding but is not justified and the consequences of a flooding event could not be effectively managed.

6.18 Other Considerations

Apart from its contribution to the housing stock, the proposed development would undoubtedly have a number of benefits. During construction it would bring jobs for local firms and generate increased spending in the local economy. Once the flats were occupied additional council tax would be raised to support existing services. The site is temporarily being used as a construction compound and thus serves a useful purpose. It has an untidy appearance, however, which will persist as long as it does not have a permanent, beneficial use. The proposed development, which has been thoughtfully designed, would improve the appearance of the site and area and make good use of a brownfield site. Sustainable methods would be used in its construction and renewable and low carbon means of energy generation would be implemented.

6.19 Planning Policy Wales (PPW) states that it is essential that Natural Resources Wales' (NRW) advice is obtained and given due weight as a material consideration; planning authorities must have good reasons for not following the advice of NRW. It is therefore understandable that the appellant is concerned at apparent inconsistency in NRW's advice on this case and in respect of similar development at a nearby site, the builder's yard in Queen Street.

6.20 The difference in the recommendations was a result of the previous uses of each site. There was correspondence between NRW and the Council as to whether the site was brownfield but, in this context, the PPW definition does not seem to me to be relevant. It was the understanding of the Inspector that the builder's yard use was categorised by NRW as less vulnerable development, as was the ground floor parking area of the scheme proposed there. It was also considered that the new use would be preferable as there would no longer be employees spending time at ground level on the builder's yard site. NRW did not therefore object to the proposal although it did recommend that the advice of the emergency planning officer should be sought.

6.21 In the case of the appeal site, its garden status was considered by NRW to be outside of the development categories and thus the change to less vulnerable development, as the proposed ground floor parking area was considered to be, represented a step up the vulnerability hierarchy and a consequent increase in risk. Whilst it is helpful to understand the differences in NRW's approach to the two proposals, the Inspector considered the appeal on its own merits and gave little weight to the builder's yard advice. The Inspector was aware that the emergency planning officer did not object to the proposal, subject to the provision of a flood plan and future occupiers signing up to the flood warning scheme.

6.23 The two outline permission for residential development granted in 1986 and 1995 have long expired and carried no weight.

## **7.00 CONCLUSION**

7.01 The proposed flats would be in a flood zone C1 but the Inspector found that they would not be justified in this location. Although the development would have several benefits and would be generally sustainable development, these advantages are not sufficient to outweigh the risk to the proposed development and its future occupiers from flooding. The inspector took all the matters raised into consideration but found no compelling reasons to allow the proposal.

7.02 For the reasons given above the Inspector concluded that the appeal should be **DIMISSED**.

### **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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